PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF



HABEAS CORPUS BY A PERSON IN STATE CUSTODY

			AN 2 9 2008
United	States District Court	OF	THE WESTERN DISTRICT OF CKLAHOMAS CLE
Name (under which you where HERSHELL EUG)	were convicted): ENE JONES, JR.		Docket or Case No.: CIV-2008-1157-L
Place of Confineme	ent: LAWION CORRECTION MOUND RD., LAWION O	M. EXCUP	Prisoner No.:
			-08 100 1
Petitioner (include the	name under which you were conv	ricted) Re	spondent (authorized person having custody of petitioner)
HERSHIL EUG	ENE JONES, JR.	v.	JUSTIN JONES, DIRECTOR OKLAHOMA DEPT- OF CORRECTIONS
The Attorney Gene	eral of the State of O	KLAHOM	A
		PFTI	TION
	,		
. (a) Name and loca	ation of court that entere	d the iudgm	DICODICO CON
			ent of conviction you are challenging: DISTRICT COU
OF OKLAHOMA	COUNTY, LOCATED		ent of conviction you are challenging: DISTRICT COU HOMA COUNTY, STATE OF OKLAHOMA, WITHIN
	COUNTY, LOCATED DISTRICT OF OKLA	IN OKLA	
THE WESTERN	DISTRICT OF OKLA	IN OKLAH	
THE WESTERN (b) Criminal dock	DISTRICT OF OKLA	IN OKLAHAHOMA. u know):(HOMA COUNTY, STATE OF OKLAHOMA, WITHIN
THE WESTERN (b) Criminal dock	DISTRICT OF OKLA cet or case number (if you dgment of conviction (if	IN OKLAHAHOMA. u know):(you know):	HOMA COUNTY, STATE OF OKLAHOMA, WITHIN CF-00-3604 / CF-00-3941 NOVEMBER 19,2001
THE WESTERN (b) Criminal dock (a) Date of the jud (b) Date of senten	DISTRICT OF OKLA Ket or case number (if you dgment of conviction (if noing:	IN OKLAHAMOMA. u know):(you know):	HOMA COUNTY, STATE OF OKLAHOMA, WITHIN CF-00-3604 / CF-00-3941 NOVEMBER 19,2001
THE WESTERN (b) Criminal dock (a) Date of the jud (b) Date of sentence Length of sentence	DISTRICT OF OKLA ket or case number (if you dgment of conviction (if noing: ce:a.)LIFE WITHOUT PAR	IN OKLAHAHOMA. u know):C you know): ROLE ; b.)	HOMA COUNTY, STATE OF OKLAHOMA, WITHIN CF-00-3604 / CF-00-3941 NOVEMBER 19,2001 DECEMBER 20,2001
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THE WESTERN (b) Criminal dock (a) Date of the jud (b) Date of sentent Length of sentence In this case, were	Ce: a.) LIFE WITHOUT PAR you convicted on more to s of which you were conviction with the convicted on the c	IN OKLAHAMOMA. u know): you know): COLE ; b.) than one couvicted and se	HOMA COUNTY, STATE OF OKLAHOMA, WITHIN CF-00-3604 / CF-00-3941 NOVEMBER 19,2001 DECEMBER 20,2001 45 YFARS; c.)TWO 20 YFAR Sentences C.C. Int or of more than one crime? Yes Elx No
THE WESTERN (b) Criminal dock (a) Date of the jud (b) Date of sentent Length of sentence In this case, were	Ce: a.) LIFE WITHOUT PAR you convicted on more to s of which you were conviction with the convicted on the c	IN OKLAHAMOMA. u know): you know): COLE ; b.) than one couvicted and se	HOMA COUNTY, STATE OF OKLAHOMA, WITHIN CF-00-3604 / CF-00-3941 NOVEMBER 19,2001 DECEMBER 20,2001 45 YEARS; c.)TWO 20 YEAR Sentences C.C. Interpretation of more than one crime? Yes Ex No entenced in this case: "MURDER 1st DECREE: ROBBERY
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Nolo contendere (no contest) □

Insanity plea (b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did

(1)

(2)

Not guilty □

Guilty XXX

(3)

(4)

you plead guilty to and what did you plead not guilty to? PLFA OF GUILTY TO ALL CHARGES.

(c) If you went to trial, what kind of trial did you h	ave? (Check one)
Jury □ Judge only X X	
Did you testify at a pretrial hearing, trial, or a post	-trial hearing?
Yes □ No Kik	
Did you appeal from the judgment of conviction?	
Yes kobx. No □	
If you did appeal, answer the following:	
(a) Name of court: OKLAHOMA COURT OF CR	IMINAL APPEALS
(b) Docket or case number (if you know): <u>C-20</u>	
(c) Result: DENIED	(See Exh. A)
(d) Date of result (if you know): JUNE 7, 2002	
,	
	F GUILTY WAS NOT KNOWINGLY AND VOLUNTARIL
ENTERED.	
· ·	
(g) Did you seek further review by a higher state c	ourt? Yes □ No ⊠X
(g) Did you seek further review by a higher state configuration of the state of the	ourt? Yes □ No ØX
	4-
If yes, answer the following:	N/A
If yes, answer the following: (1) Name of court:	N/A N/A
If yes, answer the following: (1) Name of court: (2) Docket or case number (if you know):	N/A N/A
If yes, answer the following: (1) Name of court: (2) Docket or case number (if you know):	N/A N/A N/A
If yes, answer the following: (1) Name of court: (2) Docket or case number (if you know): (3) Result:	N/A N/A N/A N/A
If yes, answer the following: (1) Name of court:	N/A N/A N/A N/A N/A N/A N/A
If yes, answer the following: (1) Name of court:	N/A N/A N/A N/A N/A N/A N/A
If yes, answer the following: (1) Name of court:	N/A N/A N/A N/A N/A N/A N/A N/A
If yes, answer the following: (1) Name of court: (2) Docket or case number (if you know): (3) Result: (4) Date of result (if you know): (5) Citation to the case (if you know): (6) Grounds raised:	N/A N/A N/A N/A N/A N/A N/A N/A N/A
If yes, answer the following: (1) Name of court:	N/A
If yes, answer the following: (1) Name of court:	N/A

	(2) Result:
	N/A
	(3) Date of result (if you know):N/A
	(4) Citation to the case (if you know):
10. O	Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions
c	oncerning this judgment of conviction in any state court?
	Yes Ko No □
11. If	f your answer to Question 10 was "Yes," give the following information:
(a	a) (1) Name of court: OKLAHOMA COUNTY DISTRICT COURT
	(2) Docket or case number (if you know): <u>CF-00-3604 / CF-00-3941</u>
	(3) Date of filing (if you know): JANUARY 12,2006
	(4) Nature of the proceeding: 22 O.S. § 1080 APPLICATION FOR POST-CONVICTION RELIEF
	(5) Grounds raised: PROP. ONE: Petitioner's Pleas of guilty were not knowingly
	and voluntairly entered; PROP. II: Petitioner received ineffective assistance
	of trial counsel; PROP. III: The trial court erred in failin to hold a hearin
	to determine Petitioner's competency to stand trial before accepting his plea of guilty; and; PROP. IV: Petitioner received ineffective assistance of
	of guilty: and: PROP. IV: Petitioner received ineffective assistance of
	of guilty: and: PROP. IV: Petitioner received ineffective assistance of
	of guilty; and; PROP. IV: Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion?
	of guilty: and: PROP. IV: Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes No XX
(t	of guilty; and: PROP. IV: Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes \(\text{No KX} \) (7) Result: _APPLICATION DENIED.
(t	of guilty; and; PROP. IV: Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes \(\text{No KX} \) (7) Result: \(\text{APPLICATION DENIED.} \) (8) Date of result (if you know): \(\text{MARCH 6,2006.} \)
(t	of guilty: and: PROP. IV: Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes \(\text{No KX} \) (7) Result: \(\text{APPLICATION DENIED.} \) (8) Date of result (if you know): \(\text{MARCH 6,2006.} \) (5) If you filed any second petition, application, or motion, give the same information:
(t	of guilty; and; PROP. IV: Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes \(\text{No KX} \) (7) Result: \(\text{APPLICATION DENIED.} \) (8) Date of result (if you know): \(\text{MARCH 6.2006.} \) (8) Dif you filed any second petition, application, or motion, give the same information: (1) Name of court: \(\text{OKLAHOMA COUIRT OF CRIMINAL APPEALS} \)
(t	of guilty; and; PROP. IV; Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes \(\text{No } \text{No } \text{X} \) (7) Result: \(\text{APPLICATION DENIED.} \) (8) Date of result (if you know): \(\text{MARCH } 6.2006. \) (5) If you filed any second petition, application, or motion, give the same information: (1) Name of court: \(\text{OKLAHOMA COUIRT OF CRIMINAL APPEALS} \) (2) Docket or case number (if you know): \(\text{PC=2006-347} \)
(t	of guilty; and; PROP. IV: Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes \(\text{No KX} \) (7) Result: \(\text{APPLICATION DENIED.} \) (8) Date of result (if you know): \(\text{MARCH 6,2006.} \) (9) If you filed any second petition, application, or motion, give the same information: (1) Name of court: \(\text{OKLAHOMA COUIRT OF CRIMINAL APPEALS} \) (2) Docket or case number (if you know): \(\text{PC-2006-347} \) (3) Date of filing (if you know): \(\text{MAY 15,2006} \)
(t	of guilty; and; PROP. IV: Petitioner received ineffective assistance of appellate counsel. (6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes □ No KX (7) Result:APPLICATION DENIED. (8) Date of result (if you know):MARCH 6,2006.

(6) Did you receive a hearing where evidence	e was given on your petition, application, or motion?
Yes □ No xx	10.51.5
(7) Result: APPEAL DENIED.	7
	5,2006.
f you filed any third petition, application, or	
(1) Name of court:	
	N/A
	N/A
	N/A
(5) Grounds raised:	N/A
	ce was given on your petition, application, or motion?
(6) Did you receive a hearing where evidence Yes□ No□	ce was given on your petition, application, or motion? N/A
(6) Did you receive a hearing where evidence	ce was given on your petition, application, or motion? N/A
(6) Did you receive a hearing where evidence Yes□ No □ (7) Result: (8) Date of result (if you know):	ce was given on your petition, application, or motion? N/A N/A N/A
(6) Did you receive a hearing where evidence Yes□ No □ (7) Result: (8) Date of result (if you know):	ce was given on your petition, application, or motion? N/A N/A
(6) Did you receive a hearing where evidence Yes□ No□ (7) Result: (8) Date of result (if you know): Did you appeal to the highest state court have lication, or motion?	ce was given on your petition, application, or motion? N/A N/A N/A ing jurisdiction over the action taken on your petition,
(6) Did you receive a hearing where evidence Yes No C (7) Result: (8) Date of result (if you know): Did you appeal to the highest state court have lication, or motion? (1) First petition: Yes XX No C	ce was given on your petition, application, or motion? N/A N/A N/A N/A ing jurisdiction over the action taken on your petition,
(6) Did you receive a hearing where evidence Yes No C (7) Result:	ce was given on your petition, application, or motion? N/A N/A N/A ing jurisdiction over the action taken on your petition,
(6) Did you receive a hearing where evidence Yes No (1) No (2) Second petition: Yes (2) No (2) Third petition: Yes (3) No (2) Second petition: Yes (3) No (2) Second petition: Yes (3) No (2) No (3) Third petition: Yes (3) No (4)	ce was given on your petition, application, or motion? N/A N/A N/A ing jurisdiction over the action taken on your petition, N/A N/A
(6) Did you receive a hearing where evidence Yes No (7) Result: (8) Date of result (if you know): (9) Did you appeal to the highest state court have dication, or motion? (1) First petition: (2) Second petition: (3) Third petition: Yes (1) No (1) Yes (2) No (1) Yes (2) No (1) Yes (3) Third petition: Yes (4) No (4) Yes (5) No (5) Yes (6) No (6) Yes (7) No (7)	ce was given on your petition, application, or motion? N/A N/A N/A ing jurisdiction over the action taken on your petition, N/A N/A N/A N/A N/A N/A N/A N/
(6) Did you receive a hearing where evidence Yes No (7) Result: (8) Date of result (if you know): (9) Did you appeal to the highest state court have dication, or motion? (1) First petition: (2) Second petition: (3) Third petition: Yes (1) No (1) Yes (2) No (1) Yes (2) No (1) Yes (3) Third petition: Yes (4) No (4) Yes (5) No (5) Yes (6) No (6) Yes (7) No (7)	ce was given on your petition, application, or motion? N/A N/A N/A ing jurisdiction over the action taken on your petition, N/A N/A N/A N/A N/A N/A N/A N/
(6) Did you receive a hearing where evidence Yes No (7) Result: (8) Date of result (if you know): Did you appeal to the highest state court have lication, or motion? (1) First petition: Yes X No (2) Second petition: Yes No (3) Third petition: Yes No (4) No did not appeal to the highest state court have lication. If you did not appeal to the highest state court have lication.	ce was given on your petition, application, or motion? N/A N/A N/A ing jurisdiction over the action taken on your petition, N/A N/A

(See Exh. D)

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12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution,
laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the
facts supporting each ground.
CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court
remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the
grounds in this petition, you may be barred from presenting additional grounds at a later date.
GROUND ONE: PETITIONER RECEIVED IFC OF APPELLATE COUNSEL IN CERTICRARI APPEAL OF JONES VS
STATE,C-2002-10; WHERE APPELLATE COUNSEL FAILED TO ADDRESS TRIAL COUNSELS INEFFECTIVENESS.
(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): APPELLATE COUNSEL NEGLECTED TO RAISE TRIAL COUNSEL INEFFECTIVENESS AT QUILTY STACE PROCEDING
·
b) If you did not exhaust your state remedies on Ground One, explain why:N/A
c) Direct Appeal of Ground One:
(1) If you appealed from the judgment of conviction, did you raise this issue?
Yes □ No □ N/A
(2) If you did not raise this issue in your direct appeal, explain why: N/A
d) Post-Conviction Proceedings:
(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?
Yes ⊠x No □
(2) If your answer to Question (d)(1) is "Yes," state:
Type of motion or petition: 22 O.S. §§ 1080; 1086 POSI - CONV. APP " COLLABORAL REVIEW"
Name and location of the court where the motion or petition was filed: STATE DISTRICT COURT OF OKLAHOMA
COUNTY, OKLAHOMA

(3) Did you receive a hearing on your motion or petition? Yes \(\text{NS} \) No \(\text{XS} \) (4) Did you appeal from the denial of your motion or petition? Yes \(\text{XS} \) No \(\text{D} \) (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes \(\text{XC} \) No \(\text{D} \) (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: \(CKLAHOMA CURT OF CRIMINAL APPEADO EXECUTE APPEADO EXECUT	ORPUS IN URIT CLAIM
Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: Ocket or case number (if you know): PC - 2007-984 Date of the court's decision: OCCHER 29, 2007 Result (attach a copy of the court's opinion or order, if available): OCA'S CRIPR ATTACHED AS (EM-B) (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this N/A (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, et have used to exhaust your state remedies on Ground One: PETITICINER SOLEHT WRIT OF HABEAS CO CIV-06-1157-L FILED ON CCICHER 19,2006, WITHDRAWN IN ABSYNCE TO EXPANSIT SIMIE COU. ON NOMBMER 29,2006, WHERE THE U.S. WESTERN DIST. CT. DISMISSED WITHOUT PREJIDIOS.	ORPUS IN URIT CLAIM
Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: Ocket or case number (if you know): PC - 2007-994 Date of the court's decision: CTOBER 29, 2007 Result (attach a copy of the court's opinion or order, if available): CCA'S CREER ATTACHED AS (EMI. B) (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this N/A (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, et have used to exhaust your state remedies on Ground One: PETITIONER SOLSHI WIT OF HAPPAS CO. CIV-06-1157-1. FILED ON OCIOHER 19,2006, WITHERANN IN APEXANCE TO EMPLET STATE CO.	ORPUS IN URIT CLAIM
Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: Ocket or case number (if you know): PC - 2007-994 Date of the court's decision: CTOBER 29, 2007 Result (attach a copy of the court's opinion or order, if available): CCA'S CREER ATTACHED AS (EMI. B) (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this N/A (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, et have used to exhaust your state remedies on Ground One: PETITIONER SOLSHI WIT OF HAPPAS CO. CIV-06-1157-1. FILED ON OCIOHER 19,2006, WITHERANN IN APEXANCE TO EMPLET STATE CO.	ORPUS IN URIT CLAIM
Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: Ocket or case number (if you know): PC - 2007-984 Date of the court's decision: OCKOPR 29, 2007 Result (attach a copy of the court's opinion or order, if available): OCXA'S CRIER ATTACHED AS (EXH. B) (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this N/A (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, et have used to exhaust your state remedies on Ground One: PETITIONER SOUTH WRIT OF HAPPAS CO.	ORPUS IN
Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: OCKLAHOMA COURT OF CRIMINAL APPEA Docket or case number (if you know): PC - 2007-984 Date of the court's decision: OCKLAHOMA COURT OF CRIMINAL APPEA Date of the court's decision: OCKLAHOMA COURT OF CRIMINAL APPEA OCCA'S CNER ATTACHED AS (EXH B) (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this N/A	
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Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed:	
Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: OKLAHOMA COURT OF CRIMINAL APPE Docket or case number (if you know): PC - 2007-984 Date of the court's decision: OCIOHER 29, 2007 Result (attach a copy of the court's opinion or order, if available): OCCA'S ORDER ATTACHED AS (EXH. B)	
Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: OKLAHOMA COURT OF ORIMINAL APPEAD Docket or case number (if you know): PC - 2007-984 Date of the court's decision: OCIOFR 29, 2007 Result (attach a copy of the court's opinion or order, if available):	s issue:
Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: OKLAHOMA COURT OF CRIMINAL APPE Docket or case number (if you know): PC - 2007-984 Date of the court's decision: OCIOPER 29, 2007	
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Yes No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No (6) If your answer to Question (d)(4) is "Yes," state: Name and location of the court where the appeal was filed: OKLAHOMA COURT OF CRIMINAL APPEAR APPEAR OKLAHOMA COURT OF CRIMINAL APPEAR OKLAHOMA COURT OF	e Exh. E
Yes \(\sigma\) No \(\frac{\frac}\frac{\frac{\frac{\frac{\frac{\frac{\frac{\frac{\frac{\frac{\	
Yes □ No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No □ (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes XX No □	EALS
Yes \(\sum \) No \(\frac{\mathbb{X}}{\mathbb{X}}\) (4) Did you appeal from the denial of your motion or petition? Yes \(\frac{\mathbb{X}}{\mathbb{X}}\) No \(\sum \) (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?	
Yes □ No XX (4) Did you appeal from the denial of your motion or petition? Yes XXX No □	
Yes □ No XX (4) Did you appeal from the denial of your motion or petition?	
Yes □ No XX	
Result (attach a copy of the court's opinion or order, if available):	ORDER
Date of the court's decision: SEPTEMBER 7,2007	

(1) 70	
(b) If you did not exhaust your state remedies	s on Ground Two, explain why:
	N/A
(c) Direct Appeal of Ground Two:	
(1) If you appealed from the judgment of	conviction, did you raise this issue?
Yes □ No □	n/a
(2) If you did <u>not</u> raise this issue in your	direct appeal, explain why:
	N/A
(d) Post-Conviction Proceedings:	
(1) Did you raise this issue through a pos	st-conviction motion or petition for habeas corpus in a state trial court?
Yes □ No □	n/A
(2) If your answer to Question (d)(1) is "	Yes," state:
Type of motion or petition:	N/A
Name and location of the court where the	e motion or petition was filed:
·	N/A
Docket or case number (if you know):	N/A
Date of the court's decision:	N/A
Result (attach a copy of the court's opini	on or order, if available):
(3) Did you receive a hearing on your me	otion or petition?
Yes □ No □	N/A
(4) Did you appeal from the denial of yo	ur motion or petition?
Yes □ No □	n/a
(5) If your answer to Question (d)(4) is "	Yes," did you raise this issue in the appeal?
Yes 🗆 No 🗅	N/A
(6) If your answer to Question (d)(4) is "	•
Name and location of the court where the	e appeal was filed:
	n/a

	Docket or case number (if you know):	N/A
	Date of the court's decision:	Ŋ∕A
	Result (attach a copy of the court's opinion of	or order, if available):
		N∕A
		stion (d)(5) is "No," explain why you did not raise this issue:
		VA
(e)		dures (such as habeas corpus, administrative remedies, etc.) that you
	nave used to exhaust your state remedies on	Ground Two:
CP	OUND THREE:	N/A
U.	TIMEL.	
(a)	Supporting facts (Do not argue or cite law. Ju	st state the specific facts that support your claim.):
		N/A
— (b)	If you did not exhaust your state remedies on	Ground Three, explain why:
` /		N/A
(c)	Direct Appeal of Ground Three:	
	(1) If you appealed from the judgment of con	nviction, did you raise this issue?
	Yes □ No □	N/A
	(2) If you did <u>not</u> raise this issue in your dire	ect appeal, explain why:
		N/A

(d) Post-Conviction Proceedi	ings:				
(1) Did you raise this issue	e through a post-convi	iction motion or petition for habeas corpus in a state trial court?			
Yes □ No □		N∕A			
(2) If your answer to Ques	stion (d)(1) is "Yes," s	state:			
Type of motion or petition	1:	N/A			
Name and location of the	court where the motio	on or petition was filed:			
And the second s		N/A			
Docket or case number (if	î you know):	N/A			
Date of the court's decision	on:	N/A			
Result (attach a copy of th	ne court's opinion or o	order, if available):			
		N∕A			
(3) Did you receive a hear	ring on your motion o	r petition?			
Yes □ No □		n∕A			
(4) Did you appeal from the	he denial of your moti	ion or petition?			
Yes □ No □		n/a			
	stion (d)(4) is "Yes," (did you raise this issue in the appeal?			
Yes □ No □	,	N/A			
(6) If your answer to Ques	stion (d)(4) is "Yes," s	•			
· · · · · ·	Name and location of the court where the appeal was filed:				
		n/a			
Docket or case number (if	f you know):	f-			
Date of the court's decision	•	N/A			
		order, if available):			
	<u>.</u>	n/A			
(7) If your answer to Ques	stion (d)(4) or Questic	on (d)(5) is "No," explain why you did not raise this issue:			
		es (such as habeas corpus, administrative remedies, etc.) that you ound Three:			
have ased to exhaust your	State remedies on On	N/A			
	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	-y			

GROUND FOUR:	N/A
(a) Supporting facts (Do not argue or cite law.	Just state the specific facts that support your claim.):
(b) If you did not exhaust your state remedies of	on Ground Four, explain why:
	Ŋ∕A
(c) Direct Appeal of Ground Four:	
(1) If you appealed from the judgment of c	onviction, did you raise this issue?
Yes □ No □	N/A
(2) If you did not raise this issue in your di	rect appeal, explain why:
	N/A
(d) Post-Conviction Proceedings:	
(1) Did you raise this issue through a post-Yes □ No □	conviction motion or petition for habeas corpus in a state trial court? N/A
(2) If your answer to Question (d)(1) is "Y	es," state:
Type of motion or petition:	N∕A
Name and location of the court where the r	notion or petition was filed:
	N/A
Docket or case number (if you know):	N/A
Date of the court's decision:	N/A
Result (attach a copy of the court's opinior	or order, if available):
•	N/A
(3) Did you receive a hearing on your moti	on or petition?
Yes □ No □	n√a
(4) Did you appeal from the denial of your	motion or petition?
Vec D No D	N/A

	Yes □ No □	N/A
(6)	If your answer to Question (d)(4) is "Ye	es." state:
• •		appeal was filed:
		N/A
Do		N/A
	•	N/A
		or order, if available):
	•	N/A
(7)		nestion (d)(5) is "No," explain why you did not raise this issue:
Otl	her Remedies: Describe any other proce	edures (such as habeas corpus, administrative remedies, etc.) that you
hav	e used to exhaust your state remedies or	n Ground Four:
	••	N/A
		NA .
		N/A
		N/A
	ase answer these additional questions ab	
Ple	ase answer these additional questions ab	
Ple	ase answer these additional questions ab	pout the petition you are filing: we raised in this petition been presented to the highest state court
Ple	ase answer these additional questions ab Have all grounds for relief that you hav having jurisdiction? Yes XXX N	pout the petition you are filing: we raised in this petition been presented to the highest state court
Ple	ase answer these additional questions ab Have all grounds for relief that you hav having jurisdiction? Yes XXX N	pout the petition you are filing: ve raised in this petition been presented to the highest state court No □
Ple	ase answer these additional questions at Have all grounds for relief that you have having jurisdiction? If your answer is "No," state which grounds are the second and the second are the second and the second are the	oout the petition you are filing: ve raised in this petition been presented to the highest state court No □
Ple	ase answer these additional questions at Have all grounds for relief that you have having jurisdiction? If your answer is "No," state which grounds are the second and the second are the second and the second are the	pout the petition you are filing: ve raised in this petition been presented to the highest state court No □
Ple	ase answer these additional questions at Have all grounds for relief that you have having jurisdiction? If your answer is "No," state which grounds are the second and the second are the second and the second are the	pout the petition you are filing: ve raised in this petition been presented to the highest state court No □
Ple	ase answer these additional questions ab Have all grounds for relief that you have having jurisdiction? Yes The No.," state which group presenting them:	oout the petition you are filing: ve raised in this petition been presented to the highest state court No □
Ple (a)	ase answer these additional questions ab Have all grounds for relief that you have having jurisdiction? If your answer is "No," state which group presenting them: Is there any ground in this petition that	oout the petition you are filing: ve raised in this petition been presented to the highest state court No □ bounds have not been so presented and give your reason(s) for not
Ple (a)	ase answer these additional questions ab Have all grounds for relief that you have having jurisdiction? If your answer is "No," state which group presenting them: Is there any ground in this petition that	bout the petition you are filing: ve raised in this petition been presented to the highest state court No □ bounds have not been so presented and give your reason(s) for not that has not been presented in some state or federal court? If so, which
Ple (a)	ase answer these additional questions ab Have all grounds for relief that you have having jurisdiction? If your answer is "No," state which group presenting them: Is there any ground in this petition that	bout the petition you are filing: ve raised in this petition been presented to the highest state court No □ bounds have not been so presented and give your reason(s) for not that has not been presented in some state or federal court? If so, which
Ple (a)	ase answer these additional questions ab Have all grounds for relief that you have having jurisdiction? If your answer is "No," state which group presenting them: Is there any ground in this petition that	bout the petition you are filing: ve raised in this petition been presented to the highest state court No □ bounds have not been so presented and give your reason(s) for not that has not been presented in some state or federal court? If so, which

Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or fed for the judgment you are challenging? Yes \(\) Notes: If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and to issues raised. NA Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging: (a) At preliminary hearing: MITY. CAMBRINE PROPERTIES. (CEA # 15251) (b) At arraignment and plea: SAME (c) At trial: NA (d) At sentencing: SAME (e) On appeal: APPELICIE DIVISION OF PUBLIC DEPENDES OFFICE/ LEAD ATTY. CANCIAN MERCITT GINA K. WAIKER. SEST. TO LEAD ATTY. (CEA # 15132) (f) In any post-conviction proceeding: HO SE LITERANT (PETITIONER) assisted by CKIANDA SIME PRATTERY LAW CLERK. (g) On appeal from any ruling against you in a post-conviction proceeding: N/A	C	opy of any court opinion or order, if available.
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(a) At preliminary hearing: ATTY. CATHERINE HAWARSIEN, (CBA # 15251) (b) At arraignment and plea: SAME (c) At trial: N/A (d) At sentencing: SAME (e) On appeal: APPELLATE DIVISION OF PUBLIC DEFENDES OFFICE/ LEAD ATTY. CAROLIN MERRITT GINA K. WAKER, ASSIST. TO LEAD ATTY. (CBA # 15132) (f) In any post-conviction proceeding: HO SE LITICANT (PRITTIONER) assisted by OKLAHOMA SIMTE PRANTIERRY LAW CLERK. (g) On appeal from any ruling against you in a post-conviction proceeding: N/A		
(c) At trial: N/A (d) At sentencing: SAME (e) On appeal: APPELATE DIVISION OF RULIC DEFINITES OFFICE/ LEAD ATTY. CARCIAN MERRITT GINA K. WAIKER, asst. TO LEAD ATTY. (CBA # 15132) (f) In any post-conviction proceeding:	•	
(c) At trial: N/A (d) At sentencing: SPME (e) On appeal: APPELATE DIVISION OF PUBLIC DEFENDERS OFFICE/ LEAD ATTY. CARCIAN MERRITT GINA K. WAIKER ASST. TO LEAD ATTY. (OBA # 15132) (f) In any post-conviction proceeding: HO SE LITICANT (PETITIONER) assisted by OKIAHOMA SIMTE PENATURAL LAW CLERK. (g) On appeal from any ruling against you in a post-conviction proceeding: N/A	(a) At preliminary hearing: Attr. Cantides Printedly (Ca. 1
(c) At trial: N/A (d) At sentencing: SPME (e) On appeal: APPELATE DIVISION OF RUBLIC DEFENDERS OFFICE/ LEAD ATTY. CARCIAN MERRITT GINA K. WALKER, asst. TO LEAD ATTY. (OBA # 15132) (f) In any post-conviction proceeding: HO SE LITICANT (PETITIONER) assisted by OKIAHOMA SIMIE PENATURARY LAW CLERK. (g) On appeal from any ruling against you in a post-conviction proceeding: N/A	-	40 August 1 Land Sant
(d) At sentencing:	•	(b) At arraignment and plea:
(d) At sentencing:	٠.	
(e) On appeal: APPELATE DIVISION OF PUBLIC DEPENDERS OFFICE/ LEAD ATTY. CAROLYN MERRITT GINA K. WALKER, asst. TO LEAD ATTY. (CBA # 15132) (f) In any post-conviction proceeding: PRO SE LITICANT (PETITIONER) assisted by OKLAHOMA SIMTE PENATURARY LAW CLERK. (g) On appeal from any ruling against you in a post-conviction proceeding: N/A	1	(c) At trial: WA
(e) On appeal: APPELATE DIVISION OF PUBLIC DEFENDERS OFFICE/ LEAD ATTY. CAROLYN MERRITT GINA K. WALKER, asst. TO LEAD ATTY. (CBA # 15132) (f) In any post-conviction proceeding: PRO SE LITICANT (PETITIONER) assisted by OKLAHOMA SIMTE PENATURARY LAW CLERK. (g) On appeal from any ruling against you in a post-conviction proceeding: N/A		
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(f) In any post-conviction proceeding: HO SE LITICANT (PETTIONER) assisted by CKLAHOMA SIMIE PENMITERY LAW CLERK. (g) On appeal from any ruling against you in a post-conviction proceeding: N/A		CONTROL OF THE ARMY CARRYAL MANDIMED AND
(f) In any post-conviction proceeding: HO SE LITICANT (PETITIONER) assisted by OKIAHOMA SIRTE PENETERSY LAW CLERK. (g) On appeal from any ruling against you in a post-conviction proceeding: N/A		
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(g) On appeal from any ruling against you in a post-conviction proceeding:		GINA K. WALKIR/ASSE. IU LIAU ALII. (CDA # LDLZZ)
		(f) In any post-conviction proceeding:
		(f) In any post-conviction proceeding:
		(f) In any post-conviction proceeding:
		(f) In any post-conviction proceeding:
. Do you have any future sentence to serve after you complete the sentence for the judgment that you are		(f) In any post-conviction proceeding:

(8	a) If so, give name and location of court that imposed the other sentence you will serve in the future: N/A
	b) Give the date the other sentence was imposed:
•	c) Give the length of the other sentence:
	d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in
	he future? Yes 🗆 No 🗆
	TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain
V	why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*
_	Petitioner's petition is not time barred and is subject to "EQUITABLE TOLLING" under
	Statutes of Limitations. 28 U.S.C.A. §§ 2244(d), 2254(d)(1)(2) AEDPA, U.S.C.A. Const.
nende	s. 14,5. Petitioner should be granted equitable tolling for circumstances beyond his
- ontro	al for the following reasons to witt:
	N NOVEMBER 19,2001, PETITIONER ENTERED HIS PLEA OF GUITTY IN CF-00-3601/CF-00-3941, WERE
	IS PLEA WAS NOT KNOWINGLY OR INTELLIGENTLY MADE DUE TO THE TRIAL COURT FAILED TO
-	
DE	SERMINE PETITIONER'S MENUAL COMPETENCY PRIOR TO ACCEPTING HIS PLEA OF GUILTY."
<u>"</u>	OVEMBER 28,2001, PETITIONER, PRO SE, FILED AN APPLICATION TO WITHDRAW HIS PREVIOUSLY
E	NIFRED PLEAS OF QUILITY."
- "T	DECEMBER 20,2001, AFTER CONDUCTING HEARING ON PLEA WITHDRAW AND DENVING SAID
_	APPLICATION, JUDGE BASS PROCEEDED TO SENIENCE PETITIONER IN ACCORDANCE WITH TERMS OF
	CHOMOUL."
- "(ON JUNE 7,2002, PETITIONER SOUGHT CERTICRARI APPEAL TO THE CKLAHOMA COURT OF CRIMINAL
_	APPEALS IN CASE NO. C-02+10, DENIED ON JUNE 7,2002. (SEE RG.5a at infica. #18).
-	Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d)

- * The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:
- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action:
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

(Infra. # 18)

"APPLICATION FOR SIMIE 22 O.S. § 1080 FOR POSI-CONVICTION RELIEF FILED ON JANUARY 19,2006, DENLIED ON MARCH 6,2006, CONFIRMED BY THE COCA ON MAY 15,2006 IN CASE NO. PC-06-347."

"PETITIONER SOLICHT 28 U.S.C. § 2254 PETITION FOR WRIT OF HABEAS CORPUS IN THE U.S. WESIERN DISTRICT COURT IN CASE NO. CIV-06-1157-L, FILED ON OCTOBER 19,2006, WITHDRAWN IN APEYANCE TO EXHAUST STATE COURT CLAIMS IN PETITIONER'S MOTION DISMISSED WITHOUT PREJUDICE ON NOVEMBER 29,2006."

Petitioner presents upon the exhaustion of his State claims petitioner resubmitts his Petition for Writ of Habeas Corpus newly exhausted claims previously dismissed without prejudice to refile.

Petitioner presents that there is a contineous state of in competence at all times where his petition is having to be prepaired through legal assistance of all his prior litigations and present filings, and is documented by some evidence through his MENIAL PSYCHARTIC EVALUATION RECORDS. (See Attached Documents Pgs. 1-9,)

Id. As Exh. F)

The continuing state of incompetency as so construde by the United States Tenth Circuit Court of Appeals in SENA vs NEW MEXICO STATE PRISON, 109 F.3d 652 (10th Cir. 1997) held... "the prior adjudication of incompetence in this case gives rise to rebuttable presumption of continued incompetence. (SEE ATTACHED MENIAL EVALUATION DOCUMENTS) See KTICHENS vs U.S., 272 F.2d 757,981 (10th Cir.1959); HLRT vs U.S., 327 F.2d 978,981 (8th Cir. 1964). This presumption applies im Habeas Corpus Preceedings, HULL vs FREEMAN,932 F.2d 159,168 (3rd Cir. 1991), but may be overcome by compentent evidence. See U.S. vs CLANK, 617 F.2d 180,184 (9th Cir. 1980).

Therefore, petitioner asks that the Court grant the following relief: TO REVERSE AND REMAND BACK TO SIRIE COURTCURF WITH INSTRUCTIONS WHERE DIE PROCESS HAS NOT BEEN PROVIDED IN DENVING RIGHT TO MENTAL COMPANIEX DEDERMINATION BY THE COURT'S MENTAL HEALTH PROVIDER, OR GRANT IMMEDIATE RELEASE.

or any other relief to which petitioner may be entitled.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on Tenural 28, 2008 (month, date, year).

Executed (signed) on 1-28-08 (date).

Hershell Jones